

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jessica Long	Team: Team # 3	CCRB Case #: 200205640	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 08/17/2002 12:23 AM	Location of Incident: in front of § 87(2)(b)	Precinct: 88	18 Mo. SOL 2/17/2004	EO SOL 2/17/2004	
Date/Time CV Reported Sat, 08/17/2002 6:30 PM	CV Reported At: IAB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 08/23/2002 10:08 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Brian Nyhus	16968	922882	088 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dale Guptar	19505	885063	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Brian Nyhus	Abuse: PO Brian Nyhus threatened to arrest § 87(2)(b) § 87(2)(b)	§ 87(2)(b)

Synopsis

On August 17, 2002, at approximately 12:23 AM, PO Nyhus and PO Guptar responded to § 87(2)(b) in Brooklyn, in response to a landlord / tenant dispute. The tenants of the building informed the officers that the owner of the building, § 87(2)(b) had changed the lock to the front door of the building and the tenants could not gain access to the premises. The officers instructed § 87(2)(b) to allow the tenants inside the building, and PO Nyhus told § 87(2)(b) that if he did not let the tenants in, he could be arrested. § 87(2)(b), § 87(2)(g)

Summary of Complaint

§ 87(2)(b) a § 87(2)(b) year old § 87(2)(b) residing in Virginia, was interviewed via telephone on October 29, 2002 (see enc. 6A-B). § 87(2)(b) stated that on August 13, 2002, he came to New York to check on his grandmother's estate. § 87(2)(b)'s grandmother had owned a house located at § 87(2)(b) in Brooklyn. There is an elderly man who lives in the residence, who collects the tenants' rents and takes care of the property. § 87(2)(b) had heard that people were not paying the rent and that the property was not being kept. When § 87(2)(b) arrived in New York, he realized that there were approximately eight men living in the building that were not paying rent. § 87(2)(b) also saw that there were numerous people who came in and out of the building, who were not residents of the building. In order to determine who was a resident of the building and who was actually a tenant, § 87(2)(b) decided to change the lock on the outside door of the building. While he changed the lock, he did not lock the door. It was § 87(2)(b)'s idea that when the tenants came to pay their rent, they would get a key to the front door, and he could then know who the residents were. § 87(2)(b) changed the lock in the afternoon on August 16, 2002.

At approximately 12:30 AM, § 87(2)(b) was outside of the location sweeping the sidewalk. While doing this, two residents of the building – § 87(2)(b) and § 87(2)(b) were sitting on the stoop. § 87(2)(b) stated that he had seen § 87(2)(b) and § 87(2)(b) smoking marijuana inside the building and also had knowledge that they were selling marijuana. There is also a crack dealer who lives on the premises.

While § 87(2)(b), § 87(2)(b) and § 87(2)(b) were outside, a patrol car arrived on the scene. PO Nyhus (identified through IAB) and PO Guptar then approached § 87(2)(b). § 87(2)(b) obtained PO Guptar's name, because PO Guptar responded to the location on August 19th, for a separate incident in which a resident threatened § 87(2)(b). The officers asked for § 87(2)(b) and § 87(2)(b) identified himself. § 87(2)(b) told the officers that § 87(2)(b) had changed the lock on the door, and they were not able to get into the house. PO Nyhus told § 87(2)(b) that he had to give the tenants a key. § 87(2)(b) tried to explain that while the lock was changed, the door was not locked. PO Nyhus told § 87(2)(b) "If you don't give them a key, I'm going to have to take you down to the police station." PO Guptar told PO Nyhus, "Hold on, let's hear what he has to say." PO Nyhus responded, "No. He cannot do that. It's against NY law. When he changes the lock on the door he must give them a key." § 87(2)(b) explained that the tenants could go in and out of their dwellings. PO Nyhus stated, "You're not supposed to do that, you need to give them a key right now or I'm going to take you downtown to the police station." PO Nyhus stated this to § 87(2)(b) three to four times. § 87(2)(b) again stated that the tenants had not been locked out. § 87(2)(b) then said that § 87(2)(b) had changed the cylinder on the door and he could not get in.

§ 87(2)(b) explained to the officers that there were drug dealers residing in the house, there was no insurance on the house, and that the tenants were not paying rent. PO Nyhus said that § 87(2)(b) had to give the tenants a key, and the tenants did not have to pay rent. PO Guptar told PO Nyhus to calm down, be quiet, and to allow § 87(2)(b) to speak. PO Guptar had to calm down PO Nyhus eight to ten times. After approximately a half an hour, the officers understood the situation and then departed the scene.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Results of Investigation

Communications

A 911 call was made on August 17, 2002 at 12:21 AM. A male caller, who provided his last name as § 87(2)(b) stated that at § 87(2)(b) there is a landlord/tenant dispute regarding keys to the front door. § 87(2)(b) stated that the landlord changed the cylinder to the front door. § 87(2)(b) stated that he would meet the police in front of the building.

Civilian Witnesses

Communications records indicated the number that § 87(2)(b) was calling from, and calls were placed to this number on December 16th and December 30th 2002. However, the number was out of service both times. Please call letters were sent to § 87(2)(b) and § 87(2)(b) on December 16th and final please call letters were sent to them on December 27th. To date neither § 87(2)(b) nor § 87(2)(b) have contacted the Investigator and none of the letters have been returned to the agency. A check of Metrosearch and the Coles Directory, for § 87(2)(b) and § 87(2)(b) yielded negative results. § 87(2)(b), § 87(2)(g)

Officer Identification

PO Nyhus was identified through the IAB call out (see enc. 4A-C) and PO Gupta was identified through § 87(2)(b)'s CCRB statement.

Officer Statements

PO Brian Nyhus and PO Dale Gupta were interviewed at the CCRB on December 2, 2002 (see enc. 8A-B, 10A-B). § 87(2)(g)

On August 17, 2002, at 12:23 AM, PO Nyhus and PO Gupta received a call to respond to § 87(2)(b) in Brooklyn, in regards to a landlord/tenant dispute. When the officers arrived at the location, three to five tenants met them outside of the building. The tenants stated that the landlord, § 87(2)(b) had changed the lock on the front door of the building, and would not let them into the premises. PO Nyhus could not tell from where he was if the door was locked or not, and he did not investigate whether the door was locked. PO Gupta believed that he had tried to open the front door and had found it locked. The tenants pointed out the landlord, who was outside, and the officers then approached § 87(2)(b) to speak with him.

The officers asked § 87(2)(b) what had happened, and § 87(2)(b) stated that the tenants had not paid rent in seven months and he was not going to let them back into the building. § 87(2)(b) also stated that there was a lot of illegal activity occurring in the building. PO Nyhus told § 87(2)(b) that he was not allowed to do that because it is considered an unlawful eviction. PO Nyhus asked § 87(2)(b) to open the door and when § 87(2)(b) refused, PO Nyhus informed § 87(2)(b) "If you continue this, you will have to be arrested because it's an unlawful eviction." PO Gupta stated that he also told § 87(2)(b) that he would have to open the door or else he would be arrested. PO Nyhus stated that § 87(2)(b) was animated and became adamant about not letting the people into the building. PO Nyhus indicated that after approximately twenty minutes, the officers and § 87(2)(b) came to an agreement that he would let the tenants into the building when they wanted to go in. PO Gupta stated that § 87(2)(b) allowed the tenants back into the building and the officers then departed the scene. At no point did § 87(2)(b) inform the officers that the door was not locked. PO Gupta did not have to calm PO Nyhus down during the incident.

§ 87(2)(b) s Criminal Conviction History

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

PO Brian Nyhus' CCRB History

PO Nyhus has no substantiated CCRB cases.

Conclusions and Recommendations

Credibility

It is not in dispute that PO Nyhus threatened to arrest § 87(2)(b). § 87(2)(b) stated that while he changed the lock to the front door, he did not lock the door. During § 87(2)(b) 911 call, he stated that the landlord had changed the cylinder to the front door. The officers indicated that the tenants informed them that they had been locked out of the building. PO Nyhus did not attempt to open the door, but PO Guptar had tried to open the front door and found it locked. § 87(2)(g)

While § 87(2)(b) stated that he changed the lock in the afternoon of August 16th, the tenants did not call the police until the early hours of August 17th. § 87(2)(b), § 87(2)(g)

Allegation A: PO Brian Nyhus threatened to arrest § 87(2)(b) (PG 208-01).

§ 87(2)(b), § 87(2)(g)

According to PG 214-12 (see enc. 1A-C), one of the ways in which unlawful eviction is classified is “changing the lock on such entrance door without supplying the occupant with a key.” An arrest may be effected when the violator “refuses to permit occupant to re-enter or who through physical obstruction prevents the occupant from re-entering.” § 87(2)(b) changed the lock on the door, the tenants were locked out of the building, and the occupants of the premises did not have the keys to the new lock. PO Nyhus therefore told § 87(2)(b) that if he did not allow the tenants to enter the location, he could be placed under arrest. § 87(2)(b), § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: